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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of: **Yuki Yokoyama, et al.**

Group Art Unit: 4182

Serial No.: 10/554,400

Examiner: **Imran Mustafa**Filed: **October 24, 2005**

P.T.O. Confirmation No.: 4602

Docket: 050417

Date: **September 18, 2009**For: **Construction Target Indicator Device**RESPONSECommissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This paper is in response to the Non-Final Office Action dated June 23, 2009. No fee is due. However, please consider this paper a petition for an appropriate extension of time if needed, and charge any fees needed to enter this paper to **Deposit Account No. 01-2340**.

Claims 1-6, 8-11, and 14-19 are rejected under 35 U.S.C. §102(e) as being anticipated by Gudat US 2004/0210370 in view of Kochi US 2003/0,004,645. This rejection is respectfully traversed on the grounds of being non-statutory (i.e., the rejection is made in view of Kochi but is based on § 102, not § 103), and also on the basis of the following remarks:

(1) Kochi does not disclose that the virtual line is calculated based on any reference point. While Kochi discloses some "reference points" (as discussed below), Kochi does not disclose the Applicants' feature that a virtual line is calculated, based on those reference points.

(2) Instant claim 1 distinguishes points from markers, reciting "a reference *point* detection unit (102) to detect two reference *points* corresponding respectively to two reference *markers* included in said plurality of reference *markers* located in the vicinity of said